

PORT OF SKAGIT COUNTY
Skagit County, Washington
January 1, 1995 Through December 31, 1995

Schedule Of Findings

1. The Port Should Improve Internal Controls Over Its Contract With EDASC And Limit Payments To Allowable Expenses

Our testing of expenditures made by the Port of Skagit County to the Economic Development Association of Skagit County (EDASC), a private nonprofit corporation, identified a number of concerns:

- a. In accordance with a contract dated April 18, 1995, the Port of Skagit County paid \$50,000 to EDASC in equal installments of \$12,500 on May 24 and 31, 1995, August 2, 1995, and October 10, 1995. These payments were for economic development related services provided from January 1, 1995, through December 31, 1995. The first installment represents a payment for services performed prior to establishing a valid contract. The last three payments represent payments made prior to receiving the full services.

The port received detailed project descriptions to document services provided for \$25,000 out of the \$50,000 contract. For the remaining \$25,000, EDASC submitted a letter describing the services provided along with each request for payment under the contract. These letters were worded in general terms and were exactly the same for each request except for one paragraph. Given the general terms in the contract, the Port of Skagit County did not have the ability to monitor contract completion to ensure an acceptable level of control over the cost and quality of the economic development services provided from the remaining \$25,000.

- b. In May 1995, the port paid \$4,500 to sponsor the 1995 EDASC annual meeting. The annual meeting was sponsored by one local business and the Port of Skagit County. A fee ranging from \$30 to \$50 per person was charged to attend this meeting with the proceeds benefiting EDASC. The annual meeting included dinner, entertainment, a speaker on economic development, celebration of the Port of Skagit County's 30th Birthday, and honoring of local government officials and businesses.

This payment was, in effect, a donation by the port to a nonprofit corporation due to the circumstances of the event. While the port has the legal authority to expend funds for a 30th Birthday celebration, the event would have to be open to the public. By charging for attendance, the general public is effectively excluded. Similarly, the expense of an economic development speaker would be allowable if the speaker were training port staff, addressing the public in general or if the fee charged for attendance was received by the port to offset the expense.

- c. In July 1995, \$125 was paid to EDASC for two port commissioners and three port employees to attend a golf tournament, wine fest, and food fair. This event was described by EDASC as a fundraiser. Reimbursement documentation for this payment indicates the Port of Skagit County intended the payment to cover the expense of meals for port employees in attendance. The event registration form identifies the \$25 fee per person for EDASC members as payment for the festival fee for the wine fest and food fair and a souvenir wine glass. Since this event's sole purpose was to generate revenue for EDASC, no public purpose was served by this expenditure of public funds.
- d. In February 1996, the port paid \$10,000 to EDASC to purchase a computer system. The computer system was purchased for EDASC's use as a private nonprofit corporation. No formal agreement with EDASC identifying the nature of the work to be performed in exchange for this payment was prepared. An EDASC memorandum indicates the benefit as "the opportunity for EDASC to maximize staff and to increase its level of support to the Port of Skagit County." The port did not retain ownership of the computer equipment purchased and no identifiable service was provided to the Port of Skagit County.

The expenditures described in paragraph "a" above are allowable port district expenses based on the authority of the *Revised Code of Washington* (RCW) 53.08.245 which states:

It shall be in the public purpose for all port districts to engage in economic development programs. In addition, port districts may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

However, these expenditures were inappropriate because they represented *prepayments* for services. Prepayment for services is prohibited by RCW 42.24.080 which states in part:

All claims presented against any county, city, district or other municipal corporation . . . shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered or the labor performed as described, and that the claim is a just, due and unpaid obligation against the municipal corporation (Emphasis added.)

The expenditures described in paragraphs "b" and "c" above represent donations of public funds in support of private nonprofit fundraisers. The expenditure described in paragraph "d" above represents a gift of public funds.

Donations and gifts of public funds are prohibited by Article VIII, Section 7 of the *Constitution of the State of Washington* which states:

No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm

While port districts are authorized to make expenditures promoting industrial development or trade within the district by Article VIII, Section 8 of the *Constitution of the State of Washington* which states:

The use of public funds by port districts in such manner as may be prescribed by the legislature for industrial development or trade promotion and promotional hosting shall be deemed a public use for a public purpose, and shall not be deemed a gift within the provisions of section 7.

Bulletin No. 404 issued by the Office of State Auditor to all public ports states:

The basic standard for promotional hosting at public expense is that the promotional hosting is calculated to result in the public purpose, declared by the Washington State Constitution, of promoting industrial development or trade within the district. Exceptions will be taken to any hosting when its possible influence on industrial development or trade promotion is so indirect or tenuous that the hosting expenditure appears to be hosting for the sake of hosting.

The expenditures as noted in "b," "c," and "d" do not meet the criteria for promoting industrial development or trade.

RCW 43.09.200, which prescribes the system of accounting for local governments, states in part:

The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction

Staff of the Port of Skagit County have indicated EDASC is considered the marketing arm of the Port of Skagit County. As a result, payments were considered to be in support of economic development and promotion.

As a result of the exceptions noted above, the Port of Skagit County is unable to provide reasonable safeguards over the expenditure of public funds made through EDASC.

We recommend the Port of Skagit County:

- a. Establish contractual responsibilities and compensation in writing prior to commencement of work.
- b. Refrain from making contract prepayments.
- c. Establish contractual language which provides a reasonable means to determine if economic development services provided meet the expectations of the contract. Furthermore, payments for contracted services provided should be supported by adequate documentation.
- d. Refrain from making gifts of public funds to nonprofit corporations, such as by purchasing computers and contributing to fundraisers.